



Department of Planning, Building and Code Enforcement

STEPHEN M. HAASE, AICP, DIRECTOR

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Project File Number, Description, and Location

PDC01-12-102. Planned Development Rezoning of the property located northerly of the intersection of Springbrook Avenue and Canyon Ridge Drive from County to A(PD) Planned Development District and subsequent permits to allow 7 single-family detached residences on a 24.4 gross acres site. (Richard A. Ceraolo, Owner/Developer) Council District: 8

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **December 11, 2002**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **November 22, 2002** and ends on **December 11, 2002**.

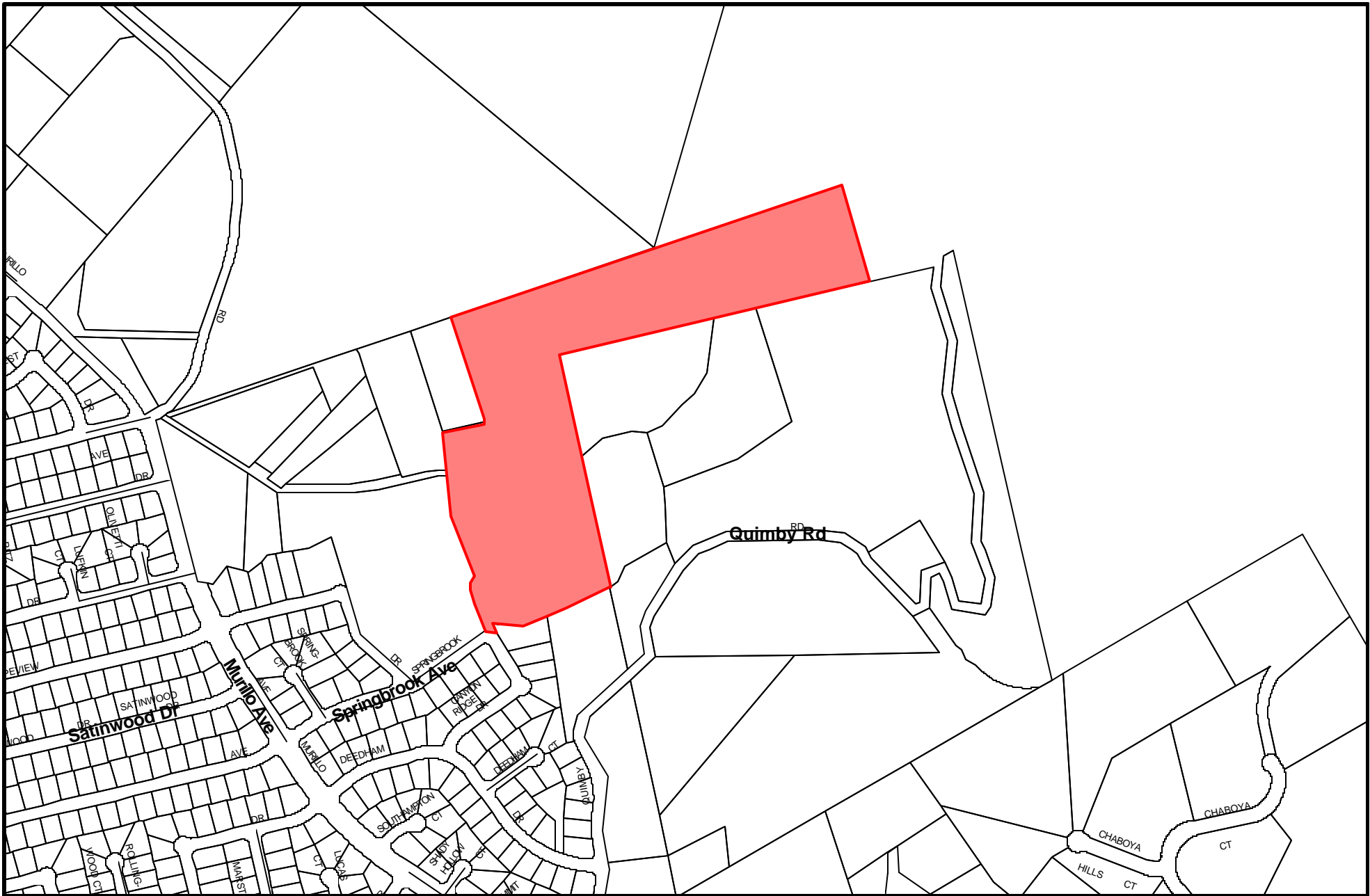
A public hearing on the project described above is tentatively scheduled for **December 11, 2002 at 6:00 p.m.** in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 180 W. San Carlos Street, the Evergreen Branch Library, 2635 Aborn Road, San José, CA, and online at www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2002.htm. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **John W. Baty** at (408) 277-4576.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

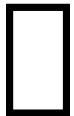
Ron Eddow

Deputy

Circulated on: November 22, 2002



Scale: 1" = 550'



File No: PDC01-102

District: 8

Quad No: 85

**DRAFT
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Springbrook Avenue Subdivision by Richard Ceraolo

PROJECT FILE NUMBER: PDC01-12-102

PROJECT DESCRIPTION: Planned Development Rezoning from County to A(PD) Planned Development District and subsequent permits to allow 7 single-family detached residences on a 24.4 gross acre site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: Northerly of the intersection of Springbrook Avenue and Canyon Ridge Drive, 654-03-009.

COUNCIL DISTRICT: 08

NAME OF APPLICANT: Richard A. Ceraolo

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON: 3698 Norwood Avenue, San José, CA 95148, (408) 287-9681

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

Air Quality

1. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site. The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less than

significant. The following construction practices should be implemented during all phases of construction on the project site. With the inclusion of these mitigation measures, the short-term air quality impacts associated with construction will be reduced to less-than significant levels.

- a. Use dust-proof chutes for loading construction debris onto trucks.
- b. Water to control dust generation during demolition of structures and break-up of pavement.
- c. Cover all trucks hauling demolition debris from the site.
- d. Ware or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind.
- e. Cover all trucks hauling soil, sand, or loose materials, or required trucks to maintain at least two feet of freeboard.
- f. Sweep daily all paved access road, parking areas, and staging areas at construction sites.
- g. Sweep streets daily if visible soil material is carried onto adjacent public streets.
- h. Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc)
- i. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- j. Replant vegetation in disturbed areas as quickly as possible.

Biological Resources

2. The developer shall have a qualified biologist conduct a survey and prepare a report not more than one month prior to construction activities to determine the presence of burrowing owls on the site. If owls are present on the site, a mitigation program shall be developed in conformance with the requirements of the California Department of Fish and Game and the U.S. Wildlife Service. If mitigation includes relocation, owls shall not be relocated during the nesting season (March through August). Prior to the issuance of any grading or building permits, the developer shall submit a biologist's report to the satisfaction of the Director of Planning, Building and Code Enforcement indicating that no owls were found on the site or that owls were present and that mitigation has been implemented in conformance with the requirements of the above regulatory agencies.
3. Pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Planning Department prior to the issuance of any grading or building permit.
4. Surveys for roosting bats shall be conducted by a qualified biologist no more than thirty (30) days prior to any building demolition or removal, construction activities or Oak tree relocation and/or removal. If a female or maternity colony of bats is found on the project site, and the project can be constructed without disturbance to the roosting colony, a bat biologist shall designate buffer zones (both physical and temporal) as necessary to ensure the continued success of the colony. Buffer zones may include a 200-foot buffer zone from the roost and/or timing of the construction activities outside the maternity roosting season (after

July 31 and before March 1). If an active nursery roost is known to occur on the site and the project cannot be conducted outside of the maternity roosting season, bats may be excluded after July 31 and before March 1 to prevent the formation of maternity colonies. Such exclusion shall occur under the direction of a bat biologist, by sealing openings and providing bats with one-way exclusion doors. In order to avoid excluding all potential maternity roosting habitat simultaneously, alternative roosting habitat, as determined by the bat biologist, should be in place at least one summer season prior to the exclusion. Bat roosts should be monitored as determined necessary by a qualified bat biologist, and the removal or displacement of bats shall be performed in conformance with the requirements of the CDFG. A biologist report outlining the results of pre-construction surveys and any recommended buffer zones or other mitigation shall be submitted to the satisfaction of the Director of Planning prior to the issuance of any grading, building, or tree removal permit.

5. A riparian corridor mitigation and monitoring plan shall be prepared by a qualified biologist prior to acquiring a grading permit. The mitigation and monitoring plan shall provide details of the plant selection, success criteria and monitoring schedule to the satisfaction of the Director of Planning. The enhancement planting shall be installed at the inception of the project and monitored for a period of five years. Drip irrigation should be installed and maintained for a minimum of three years to ensure the success criteria.
6. Trees removed shall be replaced at a ratio of 4-24" box trees for every tree with a circumference greater than or equal to 56-inches, 2-24" box trees for every tree with a circumference between 38-inches and 55.9-inches, and 1-15 gallon tree for trees less than 38-inches in circumference. Based on the size and number of trees proposed to be removed mitigation shall require the planting of 36-15 gallon trees and 70-24" box trees on site.

Cultural Resources

7. A qualified archaeologist is required to monitor all subsurface grading. The procedures regarding this monitoring are as follows:
 - a. If no resources are discovered, the archaeologist shall submit a report to the Director of Planning verifying that the required monitoring occurred and that no further mitigation is necessary.
 - b. If evidence of any archaeological, cultural, and/or historical deposits is found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. The archaeologist shall submit reports, to the satisfaction of the Director of Planning, describing the testing program and subsequent results. These reports shall identify any program mitigation that the Developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources.)
 - c. In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:
 - In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-enter the

human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

Geology & Soils

8. A complete geotechnical investigation of the site shall be made prior to final grading and foundation design. The project shall be designed in conformance with the findings of the geotechnical investigation and with the Uniform Building Code.

Hazards & Hazardous Materials

9. A state-certified lead based paint (LBP) and asbestos containing material (ACM) professional shall be retained to perform a LBP and ACM survey on and around the existing buildings prior to demolition. Should LBP and/or ACM be present the City of San José Environmental Services Department shall be contacted for the proper disposition methods and locations.

Hydrology & Water Quality

8. The project shall incorporate mitigation measures to minimize urban run-off. The mitigation measures include a storm water run-off management plan for construction activities to the satisfaction of the Department of Public Works, and compliance with all applicable City, Local, Regional, State and Federal laws. The project shall conform to the City of San Jose National Pollution Discharge Elimination System (NPDES) Storm Water Permit and shall include Best Management Practices (BMPs) as specified in the *Blueprint for a Clean Bay* to control the discharge of storm water pollutants including sediments associated with construction activities. Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City project Engineer. The Erosion Control Plan may include BMPs as specified by the Association of Bay Area Governments' Manual of Standards Erosion & Sediment Control Measures for reducing impacts on the City's storm drainage system from construction activities. For above, please call the Department of Public Works at (408) 277-5161.

Noise

9. Construction hours shall be limited to 7:00 A.M. to 7:00 P.M. Monday through Friday to avoid the more sensitive evening, nighttime, and weekend hours.

Recreation

10. The project shall contribute impact fees per the Parkland Dedication Ordinance.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **December 11, 2002**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$50 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning,

Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: November 22, 2002



Deputy

Adopted on: _____

Deputy

PUBLIC HEARING NOTICE

A change in Zoning will be considered at Public Hearings before the Planning Commission on **Wednesday, December 11, 2002, at 6:00 p.m.** and before the City Council on **Tuesday, December 17, 2002, at 7:00 p.m.**

These Public Hearings will be held in accordance with Title 20 of the San Jose Municipal Code in the City Council Chambers, on the second floor of City Hall, at 801 North First Street, San Jose, California. You are welcome to attend and to speak on this issue. If you choose to challenge this land use decision in court, you may be limited to only those issues you, or someone else, raised and discussed at the Public Hearing or in written correspondence delivered to the City at or prior to the Public Hearing.

The project being considered is:

PDC01-102. PLANNED DEVELOPMENT PREZONING of the property located northerly of the intersection of Springbrook Avenue and Canyon Ridge Drive, from County to A(PD) Planned Development Zoning District, to allow 7 single-family detached residences on a 24.4 gross acre site. (Richard A. Ceraolo, Owner/Developer) Council District 8. CEQA: Negative Declaration.

Reports, drawings, and documents for this project are on file and available for review 9:00 a.m. to 5:00 p.m., Monday through Friday at:

Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San Jose, CA 95110
(408) 277-4576
www.ci.san-jose.ca.us/planning/sjplan/

A staff report and recommendations will be available for your review during the week of the Public Hearing at the Department of Planning, Building and Code Enforcement and in a Public Packet at the hearing.

Comments and questions are welcome, and should be referred to the Project Manager, **John W. Baty**, of the Department of Planning, Building and Code Enforcement. Please refer to the above file number for further information on this project. For your convenience, contact Linda LaCount at the above telephone number the week of the Public Hearing to verify that this item will be heard and is not scheduled for deferral to a later date.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Mike Enderby, Senior Planner
Dated: 11/20/02

Patricia L. O'Hearn, City Clerk

SECTION 20.120.400 OF THE SAN JOSE MUNICIPAL CODE
ESTABLISHES A FORMAT PROTEST PROCEDURE FOR REZONINGS
AND PREZONINGS BEFORE THE CITY COUNCIL

If you are the owner of property to be rezoned, or if you own property adjacent to or across the street from a proposed rezoning or prezoning, you may file an Official Protest. Such protest must be made on a form provided by the Director of Planning and must be filed in the Department of Planning, Building and Code Enforcement **by 5:00 p.m.** on the fifth day before the City Council opens its public hearing on the proposal (that is, the Thursday before a Tuesday hearing). A separate protest petition shall be filed for each separate protesting site. Contact the Department of Planning, Building and Code Enforcement if you have any questions.